

SENATE MOTION

MADAM PRESIDENT:

I move that Engrossed House Bill 1050 be amended to read as follows:

- 1 Page 3, between lines 11 and 12, begin a new paragraph and
- 2 insert:
- 3 "SECTION 1. IC 36-7-4-208, AS AMENDED BY P.L.173-2003,
- 4 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 5 JULY 1, 2004]: Sec. 208. (a) ADVISORY. The county plan
- 6 commission consists of nine (9) members, as follows:
- 7 (1) One (1) member appointed by the county executive from its
- 8 membership.
- 9 (2) One (1) member appointed by the county fiscal body from its
- 10 membership.
- 11 (3) The county surveyor or the county surveyor's designee.
- 12 (4) The county agricultural extension educator. However, if the
- 13 county does not have a county agricultural extension educator,
- 14 the county extension board shall select a resident of the county
- 15 who is a property owner with agricultural interest to serve on the
- 16 commission under this subdivision for a period not to exceed one
- 17 (1) year.
- 18 (5) Five (5) members appointed in accordance with one (1) of
- 19 the following:
- 20 (A) Four (4) citizen members, of whom no more than two
- 21 (2) may be of the same political party. ~~and at~~ **Each of the**
- 22 four (4) ~~of whom~~ **members** must be:
- 23 **residents (i) a resident of an unincorporated areas**
- 24 **area of the county; or**
- 25 **(ii) an owner of real property located in whole or in**
- 26 **part in an unincorporated area of the county;**
- 27 appointed by the county executive. Also one (1) township
- 28 trustee, who must be a resident of an unincorporated area of
- 29 the county **or an owner of real property located in whole**
- 30 **or in part in an unincorporated area of the county,**
- 31 appointed by the county executive upon the recommendation

1 of the township trustees whose townships are within the
2 jurisdiction of the county plan commission.

3 (B) Five (5) citizen members, of whom not more than three
4 (3) may be of the same political party. ~~and all~~ **Each of the**
5 five (5) ~~of whom members~~ must be:

6 ~~residents~~ **(i) a resident of an unincorporated areas**
7 **area of the county; or**

8 **(ii) an owner of real property located in whole or in**
9 **part in an unincorporated area of the county;**

10 appointed by the county executive.

11 If a county executive changes the plan commission from having
12 members described in clause (B) to having members described
13 in clause (A), the county executive shall appoint a township
14 trustee to replace the first citizen member whose term expires
15 and who belongs to the same political party as the township
16 trustee. Each member appointed to the commission is entitled to
17 receive compensation for mileage at the same rate and the same
18 compensation for services as a member of a county executive,
19 a member of a county fiscal body, a county surveyor, or an
20 appointee of a county surveyor receives for serving on the
21 commission, as set forth in section 222.5 of this chapter.

22 (b) ADVISORY. The metropolitan plan commission consists of
23 nine (9) members, as follows:

24 (1) One (1) member appointed by the county legislative body
25 from its membership.

26 (2) One (1) member appointed by the second class city legislative
27 body from its membership.

28 (3) Three (3) citizen members who ~~are residents of~~ **reside in an**
29 **unincorporated areas area** of the county **or own real property**
30 **located in whole or in part in an unincorporated area of the**
31 **county** of whom no more than two (2) may be of the same
32 political party, appointed by the county legislative body. One (1)
33 of these members must be actively engaged in farming.

34 (4) Four (4) citizen members, of whom no more than two (2)
35 may be of the same political party, appointed by the second class
36 city executive. One (1) of these members must be from the
37 metropolitan school authority or community school corporation
38 and a resident of that school district, and the other three (3)
39 members must be residents of the second class city.

40 (c) AREA. When there are six (6) county representatives, they are
41 as follows:

42 (1) One (1) member appointed by the county executive from its
43 membership.

44 (2) One (1) member appointed by the county fiscal body from its
45 membership.

46 (3) The county superintendent of schools, or if that office does
47 not exist, a representative appointed by the school corporation
48 superintendents within the jurisdiction of the area plan
49 commission.

50 (4) One (1) of the following appointed by the county executive:

(A) The county agricultural extension educator.

(B) The county surveyor or the county surveyor's designee.

(5) One (1) citizen member who is a resident of the unincorporated area of the county **or an owner of real property located in whole or in part in the unincorporated area of the county**, appointed by the county executive.

(6) One (1) citizen member who is a resident of the unincorporated area of the county **or an owner of real property located in whole or in part in the unincorporated area of the county**, appointed by the county fiscal body.

(d) AREA. When there are five (5) county representatives, they are the representatives listed or appointed under subsection (c)(3), (c)(4), (c)(5), and (c)(6) and:

(1) the county surveyor or the county surveyor's designee if the county executive appoints the county agricultural extension educator under subsection (c)(4); or

(2) the county agricultural extension educator if the county executive appoints the county surveyor under subsection (c)(4).

(e) AREA. The appointing authority may appoint an alternate member to participate on a commission established under section 204 of this chapter in a hearing or decision if the regular member it has appointed is unavailable. An alternate member shall have all of the powers and duties of a regular member while participating on the commission.

SECTION 2. IC 36-7-4-214 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 214. (a) ADVISORY. When a municipal plan commission exercises jurisdiction outside the incorporated area of the municipality as provided for in section 205 of the advisory planning law, the executive of the county in which the unincorporated area is located shall appoint two (2) additional citizen members to the municipal plan commission. The citizen members must:

(1) reside in the unincorporated area **or own real property located in whole or in part in the unincorporated area**; and

(2) not be of the same political party.

(b) ADVISORY. Initially, one (1) member under subsection (a) shall be appointed for a term of one (1) year and the other for a term of four (4) years. Thereafter, each appointment is for a term of four (4) years. The additional citizen members are entitled to participate and vote in all deliberations of the municipal plan commission.

(c) ADVISORY. If the unincorporated area referred to in subsection (a) lies in two (2) counties, the executive of each of those counties shall appoint one (1) of the additional citizen members. The executive of the county having the larger proportion of the unincorporated area shall appoint its member first, and the executive of the other county shall then appoint its member, who must not be of the same political party.

SECTION 3. IC 36-7-4-215 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 215. ADVISORY. In

addition to the requirements of section 214 of this chapter, the executive of the county may also appoint as members of a town plan commission additional representatives ~~from who reside or own real property located in whole or in part in~~ the unincorporated jurisdictional area, if the executive believes the additional representation is justifiable. The number of appointments shall be determined as follows:

(1) Two (2) citizen members, if the population of the jurisdictional area appears to be at least fifty percent (50%) but not more than one hundred percent (100%) of the population of the town itself.

(2) Four (4) citizen members, if the population of the jurisdictional area appears to be greater than that of the town itself.

These additional members must have the same qualifications and are entitled to the same terms and privileges as prescribed for the additional members appointed under section 214 of this chapter.

SECTION 4. IC 36-7-4-216 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 216. (a) Each citizen member shall be appointed because of the member's knowledge and experience in community affairs, the member's awareness of the social, economic, agricultural, and industrial problems of the area, and the member's interest in the development and integration of the area.

(b) A citizen member may not hold other elective or appointive office in municipal, county, or state government, except in the case of an area plan commission membership on the school board, the park board, or the board of directors for public utilities or board of trustees for utilities created under IC 8-1-11.1.

(c) Except as provided in subsection (d), a citizen member must be a resident of the jurisdictional area of the plan commission.

(d) A citizen member representing an unincorporated area of the county may reside in the unincorporated area or own real property located in whole or in part in the unincorporated area.

SECTION 5. IC 36-7-4-902 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 902. (a) ADVISORY. Each division of the advisory board of zoning appeals consists of five (5) members as follows:

(1) Three (3) citizen members appointed by the executive of the municipality or county, of whom one (1) must be a member of the plan commission and two (2) must not be members of the plan commission.

(2) One (1) citizen member appointed by the fiscal body of the municipality or county, who must not be a member of the plan commission.

(3) One (1) member appointed by the plan commission from the plan commission's membership, who must be a county agricultural agent or a citizen member of the plan commission other than the member appointed under subdivision (1).

(b) ADVISORY. In each county having a metropolitan plan commission, subsection (a) does not apply. In such a county, each division of the advisory board of zoning appeals consists of five (5) members as follows:

(1) Two (2) members, of whom no more than one (1) may be of the same political party, appointed by the county legislative body.

(2) Three (3) members, of whom no more than two (2) may be of the same political party, appointed by the second class city executive. One (1) only of these members must be a member of the plan commission.

(c) AREA. When the area board of zoning appeals was established before January 1, 1984, as a seven (7) member board, the board consists of seven (7) members as follows:

(1) Two (2) citizen members appointed by the area plan commission from its membership, one (1) of whom must be a municipal representative and the other must be a county representative.

(2) Three (3) citizen members, who may not be members of any plan commission, appointed by the executive of the largest municipality in the county. However, if there are two (2) or more municipalities having a population of at least twenty thousand (20,000) in the county, the executive of the largest municipality shall appoint two (2) citizen members and the executive of the second largest municipality shall appoint one (1) citizen member. Furthermore, if there are no cities in the county participating in the commission, then the three (3) members appointed under this subdivision shall be appointed as follows:

(A) One (1) member appointed by the county executive.

(B) One (1) member appointed by the county fiscal body.

(C) One (1) member appointed by the legislative bodies of those towns participating in the commission.

(3) Two (2) citizen members, who may not be members of any plan commission, appointed by the county legislative body.

(d) AREA. Except as provided in subsection (c), each division of the area board of zoning appeals consists of five (5) members as follows:

(1) One (1) citizen member appointed by the area plan commission from its membership.

(2) One (1) citizen member, who may not be a member of any plan commission, appointed by the executive of the largest municipality in the county participating in the commission.

(3) Two (2) citizen members, of whom one (1) must be a member of the area plan commission and one (1) must not be a member of any plan commission, appointed by the county legislative body.

(4) One (1) citizen member, who may not be a member of any plan commission, appointed by the executive of the second largest municipality in the county participating in the commission. However, if there is only one (1) municipality in the county

1 participating in the commission, then the county legislative body
2 shall make this appointment.

3 (e) METRO. Each division of the metropolitan board of zoning
4 appeals consists of five (5) members as follows:

5 (1) Two (2) citizen members appointed by the executive of the
6 consolidated city.

7 (2) Two (2) citizen members appointed by the legislative body of
8 the consolidated city.

9 (3) One (1) citizen member, who may also be a member of the
10 metropolitan development commission, appointed by the
11 commission.

12 (f) METRO. The municipal board of zoning appeals for an
13 excluded city consists of five (5) members as follows:

14 (1) Three (3) citizen members appointed by the legislative body
15 of the excluded city.

16 (2) Two (2) citizen members, who may also be members of the
17 metropolitan development commission, appointed by the
18 commission.

19 (g) Whenever the zoning ordinance provides for a certain division
20 of the board of zoning appeals to have limited territorial jurisdiction, it
21 must also provide for that division to consist of members who are ~~all~~
22 residents of that limited territory **or, if the territory includes an**
23 **unincorporated area of the county, are owners of real property**
24 **located in whole or in part in the unincorporated area.** Those
25 members shall be appointed in the same manner that is prescribed by
26 subsection (a) for divisions of an advisory board of zoning appeals, but
27 if the plan commission is unable to make its appointment in that manner,
28 the appointment shall be made instead by the legislative body.

29 SECTION 6. IC 36-7-4-903, AS AMENDED BY P.L.216-1999,
30 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
31 JULY 1, 2004]: Sec. 903. ADVISORY. (a) When a municipal plan
32 commission exercises jurisdiction outside the incorporated area of the
33 municipality as provided for in section 205 or 1208 of the advisory
34 planning law, either:

35 (1) an additional division of the board of zoning appeals shall be
36 established under section 901(b) of this chapter that will have
37 territorial jurisdiction only in the unincorporated area and consist
38 only of residents of the unincorporated area **or the owners of**
39 **real property located in whole or in part in the**
40 **unincorporated area; or**

41 (2) the municipal plan commission shall designate, as its
42 appointment to the municipal board of zoning appeals under
43 section 902(a)(3) of this chapter, one (1) of the two (2) citizen
44 members who were appointed under section 214 of this chapter
45 to the plan commission to represent the unincorporated area. The
46 citizen member must reside in the unincorporated area ~~He or own~~
47 **real property located in whole or in part in the**
48 **unincorporated area. The citizen** shall be appointed for a term

of four (4) years. ~~He~~ **The citizen** is entitled to participate and vote in all deliberations of the municipal board of zoning appeals.

(b) Notwithstanding section 902(g) of this chapter, if the zoning ordinance provides for an additional division of the board of zoning appeals under subsection (a)(1), the ordinance may also provide for the appointment of one (1) or more members of that division by elected officials of the county or township.

SECTION 7. IC 36-7-4-905 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 905. (a) None of the members of a board of zoning appeals may hold other elective or appointive office, except as permitted by section 902 of this chapter, in municipal, county, or state government.

(b) **Subject to subsection (c)**, a member must be a resident of the jurisdictional area of the board.

(c) **A member representing an unincorporated area of a county must reside in the unincorporated area or own real property located in whole or in part in the unincorporated area.**

SECTION 8. IC 36-7-5.1-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 25. (a) A member of the joint district board of zoning appeals may hold no other elective or appointive office in municipal, county, or state government, except as permitted by IC 36-7-4-902.

(b) A member of the joint district board of zoning appeals must:

- (1) be a resident of a county where a part of the joint district is located; ~~or~~
- (2) reside within ten (10) miles of the borders of the joint district;
- or**
- (3) **own real property located in whole or in part in the joint district."**

Renumber all SECTIONS consecutively.

(Reference is to EHB 1050 as printed February 20, 2004.)

Senator LONG